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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **CRL MC. NO. 4836/2005**

Date of Decision : July 23, 2007

STATE OF DELHI ..... Petitioner

Through: Mr. Pawan Sharma, Advocate.

Versus

RANDHIR SINGH ..... Respondent

Through Mr. G.K. Bharti, Mr. Sahil Mahajan, Advocates.

**CORAM:**

## Mr. Justice S. Ravindra Bhat

1. Whether reporters of local papers may be allowed to see the judgment.? Yes
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

## Mr. Justice S. Ravindra Bhat(Open Court):

1. The State invokes inherent jurisdiction of this Court and seeks intervention against an order dated 19.5.2005. The learned Additional Sessions Judge by that order rejected the State's revision and confirmed the order of discharge recorded by the trial Court i.e. the Metropolitan Magistrate.

2. The Petitioner was charged with having committed an offence under Section 25 Arms Act on

10.12.2001. According to the prosecution story, the accused/respondent was in possession of a forged license in respect of revolver and .2 live cartridges. The accused/respondent had relied upon an arms license issued in 1995 by the appropriate authorities under the Act, in Jammu. The document purported to be an All India Fire Arms License under the Arms Act.

3. The prosecution version was that the authorities in Jammu & Kashmir did not possess the jurisdiction to issue an All India License. According to the State the license and the supporting document relied upon by the accused/respondent were forged. He was, therefore, charged with the offence of possessing a fire arm without a license on the basis of the allegations of alleged forgery.

4. During the proceeding in the trial Court reliance was placed upon the report of the Forensic Science Laboratory which had occasion to consider the specimen handwriting of five persons said to have worked with the Jammu authority at the relevant time. On comparison to discover whether their specimen signatures matched with the signatures on the face of the documents that such as the license and other official documents available in the Office at Jammu, the handwriting expert was of the opinion that the documents relied upon by the accused were forged. However, signatures of the accused/respondent were not obtained.

5. The trial Court by its order dated 10.12.2001 formed the opinion that just because some documents pertaining to the license were not found in the District Magistrate's office the accused/respondent could not be held guilty. It further found that the concerned officials were under duty to maintain proper records and the accused/respondent could not be held responsible in that regard since he had no obligation to do so. The trial Court was impressed of the fact that the petitioner’s name was mentioned in the license register. This reasoning was endorsed by the revisional Court.

6. Learned Counsel for the State submitted that the Courts below committed error in not giving much importance to the fact that admittedly the arms license relied upon by the accused/respondent was a forged one and unsupported by the materials in the possession of the Jammu authorities. He also claimed that the officials who were alleged to have signed those documents disclaimed having done so. Therefore, a reasonable suspicioun regarding involvement of the accused/respondent, who was admittedly the beneficiary of the license, could be established.

7. I have considered the materials on record as also the records of the trial Court which include the report of the handwriting expert. I am inclined to agree with the reasoning of the Courts below. Two important circumstances, in my opinion lend support to this finding :

    (1) That the accused/respondent's specimen signatures were never obtained. The prosecution alleged that the accused was guilty of using a forged document and that the same do not amount to a license. It was therefore incumbent upon it to prove so by positive offence – and not merely the circumstance of his being a beneficiary – that he was responsible for the forgery. No such positive offence is admittedly forthcoming;

    (2) The second important circumstance which to my mind rightly persuaded the Courts below into returning a finding in favour of the accused was that his name was indeed mentioned in the license register available with the Jammu authorities.

8. It is a settled law that the High Court in exercise of inherent jurisdiction should interfere with the findings of the Courts below only in exceptional and rare circumstances. The code had advisably permitted an appeal in such cases only in a restricted category of cases. In respect of an order of this class of cases the aggrieved party – in this case State – is entitled and did maintain a revision. The revision was considered and disposed of by a speaking order. I find no

infirmity with the approach of the revisional court or the discharge by the trial Court.

9. In these circumstances the petition has to fail; it is accordingly dismissed.

**S. RAVINDRA BHAT,J**

**JULY 23, 2007**
**mlb**